

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

RECEIVED UNITED STATES DISTRICT COURT

AUG 14 2023

for the

8th Cir. District of Nebraska

CLERK
U.S. DISTRICT COURT

Division

Hank Arkulari #215430

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Prison Medical Staff - Jon Doe (UK)
Scott R. Frakes, Prison Administration Director
Jeffrey Kasselmann - Medical Director

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Case No.

8:22 cv 00446-JFB-PRSE
(to be filled in by the Clerk's Office)

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA
2023 AUG 14 AM 11:29
OFFICE OF THE CLERK

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS (Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name Hank Arkulari
 All other names by which
 you have been known:
 ID Number 215430
 Current Institution Community Corrections Center Lincoln
 Address 2720 West Van Dorn str.
Lincoln Neb. 68522
City State Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name Jeffrey Kasselmann
 Job or Title (*if known*) Medical Director
 Shield Number
 Employer Nebraska Department Correctional Services
 Address P.O. Box 94661
Lincoln Neb. 68509-4661
City State Zip Code
☒ Individual capacity ☒ Official capacity

Defendant No. 2

Name Scott R. Frakes
 Job or Title (*if known*) Prison Administration Director
 Shield Number
 Employer Neb. Dept. of Correctional Services
 Address P.O. Box 94661
Lincoln Neb. 68509-4661
City State Zip Code
☒ Individual capacity ☒ Official capacity

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Defendant No. 3

Name

Job or Title (if known)

Shield Number

Employer

Address

Jane & Jon Doe (Unknown)
 Prison Medical Staff
 Nebraska Department of Corrections
 P.O. Box 94661
 Lincoln Neb 68509-4661
 City State Zip Code



Individual capacity



Official capacity

Defendant No. 4

Name

Job or Title (if known)

Shield Number

Employer

Address

City

State

Zip Code



Individual capacity



Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

Federal officials (a *Bivens* claim)

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Denial of Hepatitis C Treatment, when Treatment is needed
 Violation of the Due Process Act.

NOTE → (Please See additional attachment) * Highlighted - B.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

See Page 2-D Highlighted

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (*explain*) _____

IV. Statement of Claim

→ see Page 3-4 Highlighted.

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

On August. 2022 Prison medical staff diagnosed Plaintiff with Hepatitis C. and failed to provide treatment.

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C. What date and approximate time did the events giving rise to your claim(s) occur?

D. **11.** What are the facts underlying your claim(s)? *(For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)*

See page 4-5

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

See Page 5

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

See Page 5

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Nebraska Department of Corrections. Prison

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☒ No

☐ Do not know

If yes, which claim(s)?

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

Nebraska
RTC - Department of Corrections

2. What did you claim in your grievance?

Please see Exhibits brought to
the courts.

3. What was the result, if any?

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

Response to all grievance's Plaintiff
Does NOT meet criteria.

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F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this “three strikes rule”?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

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- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

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☐ Yes

☐ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 8-10-2023

Signature of Plaintiff Hank Arkulari

Printed Name of Plaintiff Hank Arkulari

Prison Identification # 215430

Prison Address 2720 West Van Dorn Street

Lincoln Neb 68522
City State Zip Code

B. For Attorneys

Date of signing: _____

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Address _____

City State Zip Code

Telephone Number _____

E-mail Address _____

8:22cv00446

Complaint for Violation of Civil Rights (Prisoner)

II Basis for Jurisdiction

Pro Se

pg. 1-6

B. ① Nebraska Department of Correctional, Prison Medical Staff

Violated Plaintiffs statutory rights (civil rights)

when the Prison Medical Staff denied treatment for

Plaintiffs hepatitis-C Therapy when treatment is

Needed for a Serious medical Need.

② Prison Administration director violated Plaintiffs

civil rights by deciding which inmates receive Hepatitis C

Treatment without specialized training and intentionally

interfering with medical need

③ Chief Medical Director Jeffrey Kasselmann

Violated Plaintiff civil rights, failure to take reasonable

measures to prevent plaintiff Hepatitis C from

Spreading throughout the Prison and failure

Page 2.

to Knowledge the Due Process Clause.

D. ① Defendant Scott R Fakes Prison Administration

Director was acting under the color of federal and State law. By statute the Administrator is responsible for ensuring All Prison Medical Staff to Comply ~~with~~ by the U.S. Constitution.

② Defendant Jeffrey Kasselmann Chief Medical

Director Acted under the Color of federal and State law by Statute by over seeing all medical decisions and Policy maker and what prisoners require specialists attention.

③ Defendants Prison Medical Staff (Jane and Jon Doe,

acted Under the Color of the federal and state law by Providing Profesional Medical Care to Prisoners

IV.

Page 3.

Statement of claim

Factual Allegations:

1. On or about August 2022, Plaintiff arrived at the Nebraska Department of Corrections (State Penitentiary)
2. On or about Aug. 27, 2022, Defendant Jon Doe Prison Medical Staff diagnosed Plaintiff with Hepatitis C.
3. Shortly after Defendant Jon Doe Prison Medical Staff failed to provide Hepatitis C treatment
4. Defendants Jon Doe Prison Medical Staff stated their staff had to follow Prison guidelines to whom gets Hepatitis C treatment.
5. Defendants Jon Doe Prison Medical Staff also stated that Plaintiff does not meet requirements for treatment at this time.
6. Defendant Jon Doe Prison Medical Staff stated that Plaintiff will be placed on Chronic Care and be monitored.
7. Around September and October Plaintiff exhausted all Prison Remedies.

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8. As to the claim in paragraph 7 Defendant Jon Doe Prison medical Staff failed to give explanation of why No medical Treatment when Treatment is needed.
9. On one of the Inmates Kites that the Plaintiff recieved from the Defendants Jon Doe medical Staff stated that Hepatitis C Therapy is expensive and they have to follow protocols.
10. Again Prison Medical Staff Jon Doe Hostility attitude towards Plaintiff while trying to get get answers and to get medical treatment for this dangerous Virus.
11. D. Plaintiff Never recieved Hepatitis-C medical Treatment Never Seen Prison Medical Staff. to get monitored and Never came across any Hepatitis C Committee.
12. Prison Medical Staff Jon Doe Responded in a inmate grievance My time Here doesnt meet criteria. with No explanation.
13. Jeffrey Kasselmann Medical Director of state Penitentiary policymaker, prohibits plaintiff to get Hepatitis C medication do to his guidelines and Rules the Prison Medical Staff must follow.

Page 5

14. Scott R. Frakes Prison Administration Director, failed to over see Plaintiff to get professional Medical Care when Hepatitis-C is clearly a serious medical need.

V. Injuries

1. Hepatitis C is life threatening, caused Plaintiff cirrhosis (scarring of the liver) liver Cancer, and death if not treated Plaintiff should of been immediate treatment not denied or prolonged. Specially when there is medication for plaintiff to prevent contracting the disease or even Spreading the virus throughout the plaintiffs body to where treatment is to late.

VI Relief

Wherefore, Plaintiff respectfully prays that this Court:

- A. Declares that the acts and Omissions described herein violated Plaintiff's rights under the Consitution and laws of the United States;
- B. Order Defendants to pay Compensatory and punitive damages;
- C. Grant other just and equitable relief that this Honorable Court deems necessary
- D. Order Defendants to reasonable attorney fees and Costs;

page 6

To the Court

Joseph F. Bataillon

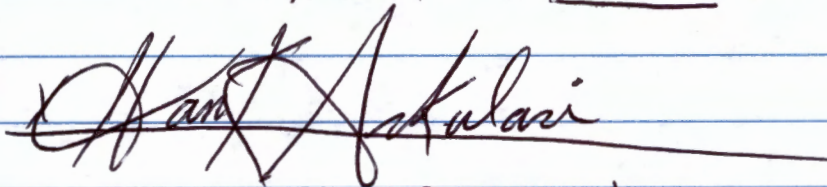
Senior United States Judge

Plaintiff ask the Courts to reconsider
to appoint Legal Representation if later if it
finds that plaintiffs case raises important or
complex issues

Hank Arkulari # inmate 215430

Signed

For pages 1-6

A handwritten signature in black ink, appearing to read "Hank Arkulari", with a horizontal line drawn underneath it.

Case No. 8:22cv00046

Name

Hank Arkulari #215430

Payee Address: P.O. Box 22200
Lincoln, NE 68502-2200Notice this correspondence is received from a
commercial entity - No action will be taken**RECEIVED**

AUG 14 2023

CLERK
U.S. DISTRICT COURT

office of the Clerk
United States District Court
111 S. 18th Plaza, Suite 1152
Omaha, Neb. 68102-1322